

May 24, 2006

Bond Number \_\_\_\_\_  
 Surety NAIC No. \_\_\_\_\_  
 Permit Number M/049/002  
 Mine Name Smokey Joe

**ATTACHMENT A**  
 To  
 RECLAMATION CONTRACT  
 BETWEEN PRINCIPAL AND DIVISION

**STATE OF UTAH**  
 DEPARTMENT OF NATURAL RESOURCES

**Division of Oil, Gas and Mining**  
 1594 West North Temple Suite 1210  
 Box 145801  
 Salt Lake City, Utah 84114-5801  
 Telephone: (801) 538-5291  
 Fax: (801) 359-3940

**RECEIVED**  
**JUL 13 2007**

**THE UTAH MINED LAND RECLAMATION ACT**

DIV. OF OIL, GAS & MINING

**SURETY BOND**

\*\*\*\*\*

The undersigned PABCO Building Products, LLC,  
DBA Interstate Brick Company, as Principal,  
 a Corporation organized under the laws of the State of California and  
Western Surety Company, as Surety, a Corporation  
 organized under the laws of the State of So. Dakota, hereby jointly and severally bind ourselves,  
 our heirs, administrators, executors, successors, and assigns, jointly and severally, unto the State of  
 Utah, Division of Oil, Gas and Mining ("Division") and N/A  
 (other agency, if any) in the penal sum of Sixty Two Thousand Four Hundred  
 dollars (\$ 62,400.00).

This Surety Bond is provided to secure the obligations of the Principal, as set forth by the terms  
 and conditions of the Reclamation Contract, and any addendums thereto, to reclaim lands that will be  
 affected by mining operations as identified in the Notice of Intention received, or approved if  
 applicable, by the Division on the 25th day of August, 20 1977

The lands that are covered by this Surety Bond are the Lands Affected by mining  
operations as defined and described in the above Notice, and the Mining and  
Reclamation Plan if required, subject to terms and conditions of the Reclamation  
Contract.

The condition of this obligation is that if the Division determines that Principal has satisfactorily  
 reclaimed the disturbed lands in accordance with the Mining and Reclamation Plan or Notice and has  
 faithfully performed all requirements of the Mined Land Reclamation Act, and complied with the Rules

☒ **APPROVED**



and Regulations adopted in accordance therewith, then this obligation shall be void; otherwise it shall remain in full force and effect. Failure of the Principal to fulfill the obligations specified by the Mined Land Reclamation Act and the Rules adopted there under, and in accordance with the specification of the Principal's Mining and Reclamation Plan or Notice, may result in forfeiture of this bond in accordance with the applicable statutes and regulations.

If the Mining and Reclamation Plan or Notice provides for periodic partial reclamation of the lands affected, and if the lands are reclaimed in accordance with such Plan or Notice, Act and regulations, then Principal may apply for a reduction in the amount of this Surety Bond. In the converse, if the Mining and Reclamation Plan or Notice provides for a gradual increase in the lands affected or the extent of disturbance, then, the Division may require that the amount of this Surety Bond be increased, with the written approval of the Surety. The amount of reclamation surety may also be adjusted as a result of a periodic review by the Division, which shall take into account inflation/deflation based upon an acceptable Costs Index, or at the request of the operator.

This bond may be canceled by Surety after ninety (90) days following receipt by the Division and Principal of written notice of such cancellation. Written notice to the Division and Principal as required by this paragraph shall be provided by certified mail or by a courier service that provides proof of delivery by signature of the recipient. Surety's liability shall then, at the expiration of said ninety (90) days, cease and terminate except that Surety will remain fully liable for all reclamation obligations of the Principal incurred prior to the date of termination.

Principal and Surety and their successors and assigns agree to guarantee said obligation and to indemnify, defend, and hold harmless the Division from any and all expenses (including attorney fees) which the Division may sustain in the collection of sums due hereunder.

Surety will give prompt notice to Principal and to the Division of the filing of any petition or the commencement of any proceeding relating to the bankruptcy, insolvency, reorganization, or adjustment of the debts of Surety, or alleging any violation or regulatory requirements which could result in suspension or revocation of the Surety's license to do business.

Surety is licensed to do business in Utah and is rated by A. M. Best as A- or better or rated as having Financial Performance Rating (FPR) of 8 or better, and is listed in the U. S. Department of Treasury's Circular "570." Upon incapacity of the Surety by reason of bankruptcy, insolvency, or suspension or revocation of its license, or upon failure to maintain the A. M. Best or FPR rating and listing on Circular "570", Principal shall be without adequate bond coverage as required by the Division and shall have 120 days after notice to replace the bond with other bonds acceptable to the Division. If the Principal does not replace this surety bond as required, the Division may order cessation of mining operations and commence actions to enforce its rights against the Surety. The Surety's liability shall continue and the Surety will remain fully liable for all reclamation obligations of the Principal incurred until this surety bond is forfeited, or the conditions of this obligation have been satisfied.

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MR-SUR  
Attachment A  
(revised May 24, 2006)

Bond Number \_\_\_\_\_  
Surety NAIC No. \_\_\_\_\_  
Permit Number M/049/002  
Mine Name Smokey Joe

IN WITNESS WHEREOF, the Principal and Surety hereunto set their signatures and seals as of the dates set forth below.

**PABCO Building Products, LLC, DBA Interstate Brick Company**

Principal (Permittee)

A.K. Mueller President

By (Name and Title typed):

A.K. Mueller

Signature

June 22, 2007

Date

**Surety Company**

**Western Surety Company**

Surety Company Name

**P.A. Gouker**

Surety Company Officer

**Attorney-in-Fact**

Title/Position

[Signature]  
Signature

**2998 Douglas Blvd, Suite 140**

Street Address

**Roseville, CA 95661**

City, State, Zip

**(877) 589-6952**

Phone Number

**June 21, 2007**

Date



# CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

Alameda

SS.

On June 25, 2007 before me,

Date

Diana L. Dudley

Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared

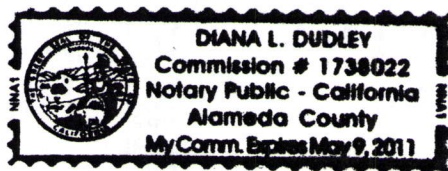
A. K. Mueller

Name(s) of Signer(s)

☒ personally known to me

☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Diana L. Dudley  
Signature of Notary Public

## OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

### Description of Attached Document

Title or Type of Document:

Surety Bond

Document Date:

June 22, 2007

Number of Pages:

1

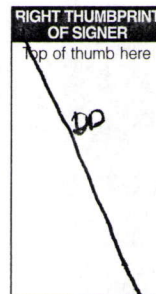
Signer(s) Other Than Named Above:

### Capacity(ies) Claimed by Signer

DD  
Signer's Name:

- ☐ Individual  
☐ Corporate Officer — Title(s): \_\_\_\_\_  
☐ Partner — ☐ Limited ☐ General  
DD ☒ Attorney-in-Fact  
☐ Trustee  
☐ Guardian or Conservator  
☐ Other: \_\_\_\_\_

DD  
Signer is Representing:




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MR-SUR  
Attachment A  
(revised May 24, 2006)

Bond Number \_\_\_\_\_  
Surety NAIC No \_\_\_\_\_  
Permit Number M/049/002  
Mine Name Smokey Joe

SO AGREED this 11<sup>th</sup> day of September, 20 07.

AND APPROVED AS TO FORM AND AMOUNT OF SURETY:

  
\_\_\_\_\_  
John R. Baza, Director  
Utah State Division of Oil, Gas and Mining

\*NOTE: Where one signs by virtue of Power of Attorney for a Surety, such Power of Attorney must be filed with this bond. If the Operator is a corporation, the bond shall be executed by its duly authorized officer.



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Surety NAIC No. \_\_\_\_\_  
Permit Number M/049/002  
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## AFFIDAVIT OF QUALIFICATION

On the \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, \_\_\_\_\_  
personally appeared before me, who being by me duly sworn did say that he/she, the said  
\_\_\_\_\_ is the \_\_\_\_\_ of  
\_\_\_\_\_ and duly acknowledged that said instrument was signed on behalf  
of said company by authority of its bylaws or a resolution of its board of directors and said  
\_\_\_\_\_ duly acknowledged to me that said company executed the same, and that  
he/she is duly authorized to execute and deliver the foregoing obligations; that said Surety is authorized  
to execute the same and has complied in all respects with the laws of Utah in reference to becoming  
sole surety upon bonds, undertaking and obligations.

Signed: \_\_\_\_\_  
Surety Officer

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss:

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Notary Public  
Residing at: \_\_\_\_\_

My Commission Expires:

\_\_\_\_\_, 20 \_\_\_\_.

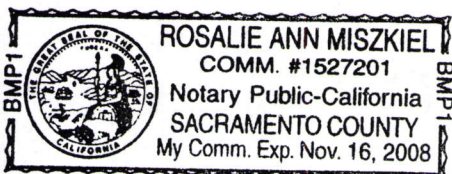
State of CALIFORNIA

County of Sacramento

On June 21, 2007 before me, Rosalie Ann Miskiel, Notary Public,  
DATE NAME, TITLE OF OFFICER - E.G., "JANE DOE, NOTARY PUBLIC"

personally appeared P.A. Gouker NAME(S) OF SIGNER(S)

☒ personally known to me - OR - ☐ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

SIGNATURE OF NOTARY

Rosalie Ann Miskiel

**OPTIONAL**

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

**CAPACITY CLAIMED BY SIGNER**

**DESCRIPTION OF ATTACHED DOCUMENT**

- ☐ INDIVIDUAL  
☐ CORPORATE OFFICER

- TITLE(S)  
☐ PARTNER(S) ☐ LIMITED  
☒ ATTORNEY-IN-FACT ☐ GENERAL  
☐ TRUSTEE(S)  
☐ GUARDIAN/CONSERVATOR  
☐ OTHER:

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

**SIGNER IS REPRESENTING:**

NAME OF PERSON(S) OR ENTITY(IES)

Western Surety Company

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE



# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Thomas R Hucik, Jo Anne Hucik, Rosalie A Miskiel, P A Gouker, Individually**

of Folsom, CA, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

### - In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Senior Vice President and its corporate seal to be hereto affixed on this 3rd day of November, 2006.



WESTERN SURETY COMPANY

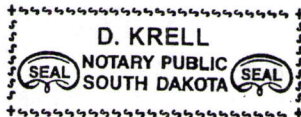
Paul T. Bruflat, Senior Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 3rd day of November, 2006, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Senior Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

November 30, 2012



D. Krell, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 21st day of June, 2007



WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary